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SIPDIS

STATE FOR EB/IFD/OIA

PASS TO USTR, TREASURY, AND COMMERCE

E.O. 12958: N/A

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SUBJECT: Guatemala - July 2004 Appendix to 2003
Investment Climate Statement

REF: STATE 141379

This appendix serves as an update to the 2003 Investment Climate Statement for Guatemala. It has been provided to assist investors in the interim period resulting from the U.S. Government's decision to begin publishing the Country Commercial Guide (of which the Investment Climate Statement is a chapter) on a calendar year basis, in January instead of August.

The United States Government has reviewed the 2003 Investment Climate Statement for Guatemala, and has noted the following changes that have occurred since its publication. In most circumstances, if a portion of the 2003 Investment Climate Statement has not been modified in this appendix, it is because the U.S. Government is satisfied that it continues to reflect accurately the state of affairs in Guatemala as of July 2004.

Openness to Foreign Direct Investment: A new administration took office in January 2004, ending the atmosphere of confrontation that existed between the government and the private sector during the previous four years. The Foreign Investment Law removed limitations to foreign ownership in domestic airlines and ground transport companies in January 2004.

Conversion and Transfer Policies: No significant changes since 2003.

Expropriation and Compensation: No significant changes since 2003.

Dispute Settlement: No significant changes since 2003.

Performance Requirements and Incentives: The IEMA, an alternative minimum tax based on assets or gross income, was declared unconstitutional in December 2003. The Guatemalan Congress approved in June 2004 a Temporary and Extraordinary Tax to Support the Peace Agreements (IETAP), which will be phased out over three and a half years, to replace the IEMA. Investors benefiting from the incentives granted by the Law for the Promotion and Development of Export Activities and Drawback are also exempted from IETAP during the 10-year Income Tax exemption period. However, the Income Tax exemption will be eliminated if the U.S. Central America Free Trade Agreement enters into force.

Right to Private Ownership and Establishment: No significant changes since 2003

Protection of Property Rights: High piracy rates remain an ongoing concern. The piracy rate for software applications, as reported by the Business Software Alliance, increased to 77 percent in 2003 (principally due to a worldwide change in measurement methodology).

Transparency of the Regulatory System: No significant changes since 2003.

Efficient Capital Markets and Portfolio Investment: As a result of strong measures taken by Guatemala to combat money laundering, e.g., enactment of regulation to control offshore activities and establishment of a Financial Intelligence Unit, the Financial Action Task Force removed Guatemala from the list of non-cooperating countries in the fight against money laundering in July 2004. As of July 2004, the Superintendence of Banks has approved the establishment of 14 financial groups, 11 of which include licensed offshore banks.

Political Violence: No significant changes since 2003.

Corruption: Illicit enrichment has still not been criminalized; although enrichment related to narcotics trafficking activity is now illegal. Several senior officials who served during the Portillo Administration are under investigation for their role in corruption scandals, and the former Finance Minister, Comptroller General and Superintendent of Tax Administration are in jail pending trial.

Bilateral Investment Agreements: Guatemala signed in conjunction with the other Central American countries a Free Trade Agreement with the United States in May 2004. The Agreement is pending ratification from both the U.S. Congress and the Central American Congresses.

OPIC And Other Insurance Programs: No significant changes since 2003.

Labor: USTR closed its review of worker rights in Guatemala at the conclusion of the 2003 annual review of the Generalized System of Preferences as a result of positive steps taken by the government in conjunction with the recently concluded U.S. Central America FTA, which includes binding labor provisions.

Foreign Trade Zones/Free Ports: No significant changes since 2003.

Foreign Direct Investment Statistics: Statistics will be updated in the next full revision of the Investment Climate Statement, which will be published in January 2005.

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